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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,192	06/30/2003	Kestutis Patiejunas	MFCP.103653	8780
45809 7590 11/16/2007 SHOOK, HARDY & BACON L.L.P. (c/o MICROSOFT CORPORATION) INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BOULEVARD KANSAS CITY, MO 64108-2613			EXAMINER OSMAN, RAMY M	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/608,192	PATIEJUNAS, KESTUTIS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ramy M. Osman	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 September 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### *Status of Claims*

1. This action is responsive to amendment filed on September 5, 2007, where Applicant amended claims 1,13,25,33,37. Claims 1-48 remain pending.

### *Response to Arguments*

2. Applicant's arguments, filed 9/5/2007, with respect to the rejection(s) of claim(s) 1-48 under 102(e) have been fully considered but are not persuasive.

3. Applicant argues that Bolik does not teach "buffering the message object prior to transmission to the remote destination" because in Bolik this occurs after the backup object has been transferred to the backup server.

*In reply*, Applicants claim language is broad and is thus broadly interpreted. Bolik does indeed teach managing data transmission from at least one data source (i.e. a backup server) to a remote destination (i.e. backup storage drive) (column 3 lines 20-30) where backup operations are performed by the backup server (column 3 lines 26-28). Buffering occurs on the backup server in the form of generating object entries into a transaction log (column 6 lines 17-25). After the buffering, the server "then writes" the object to the backup storage (column 6 lines 26-27). Thus it is seen that the buffering occurs prior to transmission to the backup storage.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of 35 U.S.C. 102(e) which forms the basis for all obviousness rejections set forth in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**5. Claims 1-48 rejected under 35 U.S.C. 102(e) as being anticipated by Bolik (US Patent No 6857053).**

6. In reference to claim 1, Bolik teaches a system for managing the transmission of data from at least one data source to a remote destination, the system comprising:

an input interface to receive a plurality of message objects generated from data from at least one data source (column 6 lines 3-7);

a transport interface to a transport layer (column 3 lines 20-30); and

a communication engine, communicating with the input interface and the transport interface, the communication engine buffering the message objects prior to transmission to the remote destination via the transport layer (column 6 lines 18-34, where on line 26 the phrase "then writes" denotes that the buffering occurs prior to the server writing the objects to the backup storage).

7. In reference to claim 2, Bolik teaches a system according to claim 1, wherein the at least one data source comprises a network (column 3 lines 12-20).

8. In reference to claim 3, Bolik teaches a system according to claim 2, wherein the network comprises at least one server (column 3 lines 12-20).

9. In reference to claim 4, Bolik teaches a system according to claim 3, wherein the network comprises a local area network (column 3 lines 15-20).

10. In reference to claim 5, Bolik teaches a system according to claim 1, wherein the transport layer comprises a Transport Control Protocol layer (column 3 lines 10-35).

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11. In reference to claim 6, Bolik teaches a system according to claim 1, wherein the remote destination comprises a storage host (column 3 lines 21-26).
12. In reference to claim 7, Bolik teaches a system according to claim 1, wherein the communication engine queues the message objects in at least one output buffer (column 6 lines 18-34).
13. In reference to claim 8, Bolik teaches a system according to claim 1, wherein the at least one data source comprises a plurality of data sources (column 3 lines 12-20 and column 6 lines 3-7).
14. In reference to claim 9, Bolik teaches a system according to claim 8, wherein each of the data sources is associated with at least one corresponding session (column 6 lines 3-34).
15. In reference to claim 10, Bolik teaches a system according to claim 9, wherein the communication engine binds at least one session to at least one of a plurality of connections to the remote destination (column 6 lines 3-34).
16. In reference to claim 11, Bolik teaches a system according to claim 10, wherein the communication engine binds more than one session to at least one of the connections to the remote destination (column 6 lines 3-34).
17. In reference to claim 12, Bolik teaches a system according to claim 1, wherein the buffering of the message objects is performed at least in part according to a state of a message completion port (column 6 lines 3-37).
18. In reference to claims 13-24, claims 13-24 are method claims that correspond to the system claims of 1-12. Therefore, claims 13-24 are rejected based upon the same rationale as the rejections of claims 1-12.

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19. In reference to claims 25-36, claims 25-36 are database claims that correspond to the system claims of 1-12. Therefore, claims 25-36 are rejected based upon the same rationale as the rejections of claims 1-12.
20. In reference to claims 13-24, claims 37-48 are message object claims that correspond to the system claims of 1-12. Therefore, claims 37-48 are rejected based upon the same rationale as the rejections of claims 1-12.

### *Conclusion*

21. The claims have been given their broadest reasonable interpretation. Applicant is advised that the above specified citations of the relied upon prior art are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and priority documents) is implied as being applied to teach the scope of the claims.
22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO  
November 9, 2007

  
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